

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice FI-2535**

**For:** State and County Offices

**Screening Process for FLP Treasury Offset Program (TOP) Calendar Year 2002, Phase 2**

**Approved by:** Deputy Administrator, Management



**1 Overview**

**A**

**Background**

The Debt Collection Act, as amended by the Debt Collection Improvement Act (DCIA) of 1996, requires that delinquent debtors be referred to TOP for administrative offset of Federal Government payments, including the following:

- income tax refunds
- Federal salary pay, including military pay
- Federal retirement pay, including military retirement pay
- contractor and vendor payments
- certain Federal benefit payments issued under:
  - the Social Security Act, other than supplemental security income
  - part B of the Black Lung Benefit Act
  - any law administered by the Railroad Retirement Board, other than tier 2 benefit payments
- other Federal payments that are not exempt from offset.

**Note:** Social Security disability payments are eligible for TOP offset.

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**Disposal Date**

September 1, 2003

**Distribution**

State Offices; State Offices relay to County Offices

## 1 Overview (Continued)

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### A

#### Background (Continued)

As in prior years, a 2-phase process is used to screen for TOP offset eligibility. Before phase 1, the delinquent loans certified in December 2001 were removed from the TOP screens, and loans delinquent as of August 2, 2002, are now displayed on the TOP screens. Many delinquent loans from the 2001 certified group are also on the 2002 list.

Phase 1, initiated by Notice FI-2533, issued on August 6, 2002, instructed FLP to screen delinquent debtors 90 calendar days or more past due as of August 2, 2002, for eligibility to receive the 60-calendar day due process notification. In phase 2, debtors will be deleted before TOP certification of 2002 delinquent debts if the debtor resolves the delinquency. In response to internal deficiencies identified by a GAO audit in 2001, State Offices will be given delete capability and local servicing offices will be given view only capability.

Since the 2002 delinquent debts are now loaded on the TOP screens, deleting a debtor from TOP who was on the December 2001 certification list occurs only if:

- debtor status on ADPS generates a programmatic delete

**Note:** A weekly update program is run every Friday night and sent to Treasury the following Tuesday.

- FSA 1956-22 is FAXed to Loan Operations Division (LOD), Program Reporting Branch (PRB) for personnel to manually delete the debt online on the Treasury computer.

Any deletes entered on the TOP screens after August 1, 2002, will **not** delete the debtor from the 2001 certification. If a programmatic delete will not be generated by information residing on PLAS, FSA 1956-22 must be FAXed to LOD, PRB at 314-539-6266 to prevent future TOP offsets. The certification list that was distributed in January 2002 must be used as a reference. The 2001 certification list was redistributed to the State Offices the week of August 19, 2002.

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### B

#### Purpose

This notice provides:

- guidance on determining eligibility for TOP offset notification
  - instructions for deleting debtors on the TOP offset update screens.
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## 1 Overview (Continued)

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### C

#### Contacts

Address questions about this notice as follows:

- County Offices shall contact the State Office
  - State Offices shall contact:
    - LSPMD at 202-720-1653 for questions about FLP procedures
    - KCFO, St. Louis, LOD, PRB at 314-539-2494 for questions about the screening process.
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## 2 KCFO St. Louis Responsibility

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### A

#### Debtors Selected for TOP Offset Screen

KCFO, St. Louis will make the TOP offset online screens available to State and County Offices the week of September 9, 2002.

The screens will reflect all eligible delinquent debtors who received a 60-calendar-day due process letter and are in 1 of the following categories:

- judgments
- employee defalcations
- currently not collectable (CNC)
- listed on RC 540, and are:
  - 90 calendar days past due
  - not flagged bankruptcy action pending (BAP) or subject to approval adjustment (SAA) after confirmed by the bankruptcy court
  - at least \$25 delinquent.

**Note:** RC 540 has been modified to include boll weevil, dwelling retention (homestead protection), Bureau of Reclamation, community programs and associations (drainage and irrigation and grazing associations), and seed loans.

Loans not reduced to judgment which are involved in a bankruptcy action that will not be final must have a collection only code of "8" to be excluded from the screens.

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## 2 KCFO St. Louis Responsibility (Continued)

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### A

#### Debtors Selected for TOP Offset Screen (Continued)

Implementation of TOP referral for delinquent co-debtors has begun. A total of 330 co-debtors were selected for TOP screening nationwide since the Agency's database contains the required information for referral of these co-debtors. As part of the later quarterly screening process, FSA will be attempting to obtain the required information to refer additional co-debtors to TOP.

All debtor loans that were on the screens and not deleted in phase 1 will be reflected and must be reviewed on an ongoing basis. The delinquent amount is the total unpaid principal and interest for accounts with:

- ACL flag
- FAP flag
- CAP flag
- cost item loans
- fully matured loans
- employee defalcations
- judgments.

**Note:** See FmHA Instruction 1951-S, Exhibit O, for the description of account flags.

Debtors flagged 51-S have been included. Debtors who have requested servicing under FmHA Instruction 1951-S are **eligible** for offset until a settlement or repayment plan has been approved by FSA.

**Note:** The capability to add loans as they become delinquent and to add delinquent leases is currently being developed.

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## 2 KCFO St. Louis Responsibility (Continued)

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### B Letters to Debtors

During the week of September 9, 2002, LOD, PRB will send a 60-calendar-day due process notification to all debtors not deleted on the TOP offset screens in phase 1 according to Notice FI-2533. See Exhibit 2 for the notification letter. This letter will provide the 60-calendar-day due process notification required under DCIA. Debtors will have 60 calendar days from the mailing date of the letter to provide evidence in writing to the servicing official that their debt should not be offset.

**Note:** Since this letter only provides debtors with actions they can take and is not a letter of adverse action based on a factual matter, it does not provide new National Appeals Division appeal rights.

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## 3 County Office Responsibility

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### A Screening

During the week of September 9, 2002, State Office personnel will be given delete access, and servicing office personnel will be provided view-only access to the TOP offset online screen. Servicing offices have until COB December 4, 2002, to:

- review the online screens and determine whether each debtor has a loan or loans that make the debtor eligible for TOP offset notification

**Note:** Verify the accuracy of any flags on the debtor's account and correct them, if necessary.

- notify LOD, PRB by FAX at 314-539-6266 of any CNC loans that are eligible for TOP, cross-servicing, or both, but do not appear on the TOP screens

**Note:** Newly identified CNC loans will not appear on the screens until the next cycle.

- review Exhibit 3 for delete codes that will be programmatically generated based on the ADPS status of the debtor's account as of December 6, 2002
  - provide the State Offices with documentation for any loan that is ineligible based on criteria in Exhibit 1.
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### 3 County Office Responsibility (Continued)

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#### A

##### Screening (Continued)

For all due process letters returned in phase 1 as unreceived by the debtors, FLM must mail them to the debtor's last known address. These debtors will have 60 calendar days from the second mailing date to resolve the delinquent debt.

For debtors whose files are being handled in another office, contact that office for a determination of eligibility.

If the servicing office is unable to access the debtor TOP screens and the servicing official is aware that there should be debtors on the screens, contact the State Office.

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#### B

##### How to Access Screens

County Offices can **view** debtors on the TOP screens as follows:

- on the Online Subsystem Selection Menu, select "TOPOFFST" and the Borrower Selection Menu will be displayed
- on the Borrower Selection Menu, enter 1 of the following in the "Enter Option" field:
  - "2", to view debtors by State and county
  - "3", to view debtors by case number.

If "2" is entered in the "Enter Option" field, then:

- enter the 2-digit non-FIPS State code (former FmHA code) in the "Enter State" field
  - enter all 5 digits of the FSA servicing office mail code, which is the 2-digit non-FIPS State code and the 3-digit servicing office code, and PRESS "Enter".
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### 3 County Office Responsibility (Continued)

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#### B

##### How to Access Screens (Continued)

If “3” is entered in the “Enter Option” field, then:

- enter all 5 digits of the FSA servicing office mail code, which is the 2-digit non-FIPS State code (former FmHA code) and the 3-digit servicing office code in the “Enter State and County” field
- enter the entire 15-digit debtor case number in the “Enter Case Number” field, and PRESS “Enter”.

**Note:** The loans for the debtor will be displayed if the debtor is within the requestor’s servicing jurisdiction.

ENTER “4”, to return to the Online Subsystem Selection Menu, and PRESS “Enter”.

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### 4 State Office Responsibility

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#### A

##### Screening

During the week of September 9, 2002, both State and local servicing offices will be provided access to the TOP offset online screen. The responsibility for deleting loans now rests with the State Office; however, the screening process is the responsibility of both the State Office and the servicing office. The deadline for entering delete codes is December 6, 2002, for the State Office.

State Offices will provide instruction to their servicing offices to notify the State Office that a debtor's loan should be deleted.

**Note:** No servicing office action is needed for debtors who meet the delete code criteria in Exhibit 3.

State Offices will enter a delete code for **each** loan that is ineligible, based on criteria in Exhibit 1. Do **not** use codes that are not included in Exhibit 1. Delete code information is tracked and used for Congressional reporting in the Treasury Report on Receivables (TROR).

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#### 4 State Office Responsibility (Continued)

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##### A

##### Screening (Continued)

CNC and judgment debt must be carefully reviewed before determining TOP eligibility. If any CNC loan is past the 10-year statute of limitations, as defined by OGC, or becomes ineligible for other reasons, notify LOD, PRB immediately by FAXing FSA 1956-22 to 314-539-6266. FmHA 1951-43 is obsolete and shall not be used.

**Important:** Each CNC loan must be reviewed because the 10-year statute of limitations for collection by offset may have expired. Only State and local servicing offices can determine whether the loan should be deleted. Use delete code 09 for **open** (non-CNC) loans only. Do **not** delete CNC accounts on the TOP screens. Judgment debt is not subject to the 10-year statute of limitations. It is enforceable for 20 years and may be renewed for an additional 20 years.

CAP and FAP flagged loans are included on the screens. The presence of one of these flags on the account is irrelevant to whether a debtor should be deleted. Review the debtor file to determine eligibility, as follows:

- CAP flagged accounts should be deleted with code 03 **only** if legal action other than bankruptcy or foreclosure prohibits offset

**Note:** Loans involved in a discrimination lawsuit remain eligible for offset pending the outcome of the lawsuit, but are not eligible for cross servicing.

- FAP flagged accounts should be deleted with code 01 **only** if administrative offset would jeopardize litigation under State law. Consult Regional OGC for guidance on State law effects.

Judgments under the jurisdiction of the Department of Justice, i.e., foreclosures and deficiencies in active litigation, should have been deleted in phase 1. If they were not deleted in phase 1, they must be deleted in phase 2.

Ineligible judgment debt is deleted with code 04 only. See FLP Notice-258 for guidelines in determining whether a judgment is eligible for TOP referral.

**Note:** Judgment debt is entered separately for each liable party. Unless a judgment debtor has resolved the account, collection is sought in the entire amount from each party.

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#### 4 State Office Responsibility (Continued)

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##### B

##### How to Access Screens

State Offices will have online capability to delete loans serviced by their local servicing offices. Refer to subparagraphs 2 A and 4 A for critical information about eligibility.

State Offices can access the TOP offset screens as follows:

- select “TOPOFFST” from the Online Subsystem Selection Menu
- on the Borrower Selection Menu, enter 1 of the following in the “Enter Option” field:
  - “1”, to view all debtors in the State
  - “2” to view debtors by State and county
  - “3”, to view debtors by case number.

If “1” is entered in the “Enter Option” field, then enter the 2-digit non-FIPS State code in the “Enter State” field and PRESS “Enter”. All debtors within the State will be displayed.

If “2” is entered in the “Enter Option” field, then:

- enter the 2-digit non-FIPS State code (former FmHA code) in the “Enter State” field
- enter all 5 digits of the FSA servicing office mail code, which is the 2-digit non-FIPS State code and the 3-digit servicing office code, in the “ENTER STATE AND COUNTY” field and PRESS “Enter”. All debtors in the specified county will be displayed.

If “3” is entered in the “Enter Option” field, then:

- enter the entire 15-digit debtor case number in the “Enter Case Number” field, and PRESS “Enter”

**Note:** The loans for the debtor will be displayed if the debtor is within the requestor’s servicing jurisdiction.

- ENTER “4” to return to the Online Subsystem Selection Menu, and PRESS “Enter”.

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#### 4 State Office Responsibility (Continued)

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##### C

**Deleting Debtors** After accessing debtors through option 1, 2, or 3 on the Borrowers Selection Menu, follow these steps to delete a loan **and any cost item related to the loan** if ineligible for offset.

Step	Action
1	Input the applicable delete code from Exhibit 1 in the "DLT CDE" field on the line for the loan number to be deleted. If all of a debtor's loans are to be deleted, a delete code <b>must</b> be input for each loan.
2	Input any delete codes needed for all debtors and their loans displayed on the page of the screen.
3	<p>PRESS "Enter".</p> <p><b>Note:</b> "Enter" <b>must</b> be pressed for each <b>page</b> if a delete code has been entered. If "PF8" or "PF7" is pressed without pressing "Enter" first, the delete code will not be processed.</p> <p>Once "Enter" has been pressed, "Borrower(s) Processed" will be displayed on the bottom left of the screen. The current date will be displayed in the "Delete Date" column in the center of the screen. To verify the delete codes have processed, ENTER "4" to return to online Subsystem Selection Menu, and PRESS "Enter" again. The delete codes will be displayed in the loan line under the "Delete Code" column.</p>
4	Continue this process for all pages displayed for the requested State or servicing office for the debtor.

**Note:** Before COB December 6, 2002, the delete code previously entered may be changed by inputting "00" if the debtor becomes eligible for offset, or by entering a new delete code. Any debtor loans that do not have a delete code input by COB December 6, 2002, or generated in the update process immediately

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**TOP Offset Online Screen Delete Codes for Non-CNC Loans**


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<b>Code</b>	<b>Description</b>
01	Account has been referred to OGC or Department of Justice for foreclosure and collection by offset would jeopardize the litigation under State law.  <b>Note:</b> Existence of a foreclosure action pending flag is not a determining factor. Remove any erroneous flag.
02	Loan has been discharged in bankruptcy and debtor is no longer liable, or is under the jurisdiction of a bankruptcy court, and the debt has not been reaffirmed.  <b>Note:</b> Existence of a bankruptcy action pending flag and Collection Only Code=8 are used as determining factors in the programmatic screening. Remove any erroneous flag or code.
03	Legal action, other than bankruptcy or foreclosure, prohibits offset.  <b>Note:</b> Loans involved in a discrimination lawsuit remain eligible for offset pending the outcome of the suit.
04	Judgment debt ineligible for TOP and cross-servicing.
08	Loan is current under a Subject to Approved Adjustment (SAA).  <b>Note:</b> SAA is a bankruptcy reorganization plan or debt settlement adjustment. Debtors who are delinquent in a reorganization plan will be ineligible for offset if still under court jurisdiction.
09	Loan is past the 10-year statute of limitations to collect by offset.
16	Repayment plan has been approved by FSA.

**Note:** Delete code 17 may be used only if the timing of cash applications on ADPS would not generate a delete code in time and the debtor is eligible for deletion.

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**Letter for Debtors More Than 90 Calendar Days Past Due**

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Dear Debtor:

Our records indicate that you are more than 90 days past due on debt owed to the United States Department of Agriculture, Farm Service Agency (FSA). Under Federal law, we are required to offset any eligible Government payments due you to resolve the delinquent debt.

Enclosed is a list of the delinquent loan(s) and the amount(s) due as of (Insert Date). You have 60 days to resolve this delinquent debt.

The following options are available for settling this debt:

- Fully pay the delinquent debt outstanding on your loans at your local servicing office on or before (Insert Date). The amount could change because of protective advances, other servicing actions, interest accrual, previous offsets, or other collections. Contact your local office for the correct amount.
- Make settlement arrangements with your local servicing office. If immediate payment would create a serious financial hardship, you may request consideration of a written repayment/settlement agreement with FSA. This request must be submitted in writing before (Insert Date), and must state your repayment proposal, including the specific terms desired. To verify that immediate repayment of the delinquency would cause serious financial hardship, a signed financial statement must be provided with any settlement proposal or installment repayment request. The financial statement must list all income and expenses, and contain a balance sheet listing all assets and liabilities. An approved repayment/settlement agreement must be in place to avoid offset.
- Inform your local servicing office of any bankruptcy proceedings. Debtors who have filed for bankruptcy, and for whom an automatic stay is in effect, may not be subject to collection actions. If this provision applies, please submit a copy of the bankruptcy petition to your local servicing office by (Insert Date).

If the delinquent debt is not involved in a bankruptcy proceeding, or is not paid in full or settled by (Insert Date), the United States Treasury Department will be notified to collect by offset from the following Federal government payments due you, if applicable:

- Income tax refunds
- Federal salary, including military pay
- Federal retirement pay, including military retirement pay
- Contract or vendor payments
- Certain Federal benefits payments, such as Social Security (other than Supplemental Security Income), Railroad Retirement (other than tier 2), and Black Lung (part B) benefits
- Other Federal payments, including certain loans to you, that are not exempt from offset.

All delinquent debt is referred to commercial credit bureaus on a quarterly basis.

If, after all security has been liquidated, debt remains which has not been settled, that debt may also be referred to Treasury for potential referral to private collection agencies and possible administrative wage garnishment. The amount referred for collection will include the delinquent principal, any accrued interest, protective advances and collection costs. The debt may also be referred to the United States Department of Justice for litigation.

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**Letter for Debtors More Than 90 Calendar Days Past Due (Continued)**

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You have the right to obtain a copy of the records for the listed delinquent debt. To do so, send a written request to your local servicing office. Please provide your Social Security Number or Employer Identification Number and your complete mailing address with the request.

You have the right to a review of the validity of the delinquent debt amount. Any request for review must be made in writing to your local servicing office by (Insert Date). If you disagree with the delinquent debt amount and wish to dispute the record, please explain the reason for any challenge and include any written evidence available to support your position. You will be notified in writing of a determination.

Additional interest is accruing daily on this debt. The amount due will continue to increase until the delinquency is paid or the account is settled. Any discharged debt will be reported to IRS on Form 1099-C, Cancellation of Debt.

If a joint Federal income tax return is filed, and your spouse is not responsible for this debt, please contact your local Internal Revenue Service office before filing your return to learn how to protect your spouse's share of the refund.

For further information, please call your local servicing office or our toll-free number, 800-428-9643.

**Offset Programmatic Delete Codes**

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<b>Code</b>	<b>Description</b>
02	Account has a “BAP” flag or Collection Only Code = 8 (non-judgment loans only).
08	Account has an “SAA” flag.
13	A cost item reversal put a “Z99” paid code on the account. Transaction code “4A” or “4D” put a “Z97” paid code on the account.
17	Loan is current or paid in full by cash payment.
19	Loan is satisfied by other than those reasons in codes “13”, “17”, and “38”.
38	Account has been written off with a class of CWC other than "5".

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